

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

DAVID D. BUTLER,

Plaintiff,

V.

JAMES HANKEN, et al.,

Defendant.

CASE NO. 2:23-cv-01624-LK-BAT

**ORDER STRIKING REPORT AND
RECOMMENDATION AND
GRANTING APPLICATION TO
PROCEED *IN FORMA PAUPERIS*
AND DIRECTING INSTITUTION
TO CALCULATE, COLLECT, AND
FORWARD PAYMENTS**

Plaintiff is a prisoner proceeding *pro se* in this civil rights action. The Court **ORDERS:**

1. The report and recommendation filed on November 28, 2023, is **STRICKEN**.

Dkt. 3.

2. Plaintiff's application to proceed *in forma pauperis* is **GRANTED**. Dkt. 4.

3. Pursuant to 28 U.S.C. § 1915, and plaintiff's approved application to proceed *in pauperis*, the agency having custody of the above-named plaintiff is directed to calculate an initial partial filing fee equal to 20 percent of the greater of either: (a) the average monthly balance in the plaintiff's account; or (b) the average monthly balance in the plaintiff's account for the 6-month period immediately preceding the date of this Order. The initial partial filing fee shall be forwarded to the Clerk of Court as soon as practicable.

Subsequently, if the prisoner's account exceeds \$10.00, each month the agency having custody of the prisoner is directed to collect and forward payments equal to 20 percent of the prisoner's preceding month's income credited to the prisoner's account. If the monthly payment would reduce the prisoner's account below \$10.00, the agency should collect and forward only that amount which would reduce the prisoner's account to the \$10.00 level. Please note this \$10.00 limit does not apply to the initial partial filing fee described above. Finally, the monthly payments should be collected and forwarded to the Court until the entire filing fee (\$350.00) for this matter has been paid.

4. The Clerk shall provide a copy of this Order to Plaintiff, to the financial officer of this Court, and to the agency having custody of Plaintiff.

DATED this 5th day of December, 2023.

BT
BRIAN A. TSUCHIDA
United States Magistrate Judge